

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
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:  
vs : 16-CR-152  
:  
:  
JOSIAH FERREBEE :  
:  
:

BEFORE: THE HONORABLE JAMES M. MUNLEY  
UNITED STATES DISTRICT JUDGE  
  
PLACE: COURTROOM NO. 3  
  
PROCEEDINGS: MOTION HEARING  
  
DATE: MAY 31, 2017

APPEARANCES:  
  
For the United States:  
  
WILLIAM HOUSER, ESQ.  
U.S. ATTORNEY'S OFFICE  
235 N. WASHINGTON AVENUE  
3RD FLOOR  
SCRANTON, PA 18503

For the Defendant:  
  
CHRISTOPHER J. OSBORNE, ESQ.  
OSBORNE LAW, LLC  
329 PENN AVENUE  
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SCRANTON, PA 18503

1 THE COURT: Okay. Do you want to come up? And this  
2 is Mr. Ferrebee?

3 THE DEFENDANT: Yes, Judge.

4 MR. OSBORNE: Good morning, Your Honor. Your Honor,  
5 we were here in early May on a petition where Mr. Ferrebee was  
6 looking for appointment of different counsel. We came in front  
7 of Your Honor. I discussed some things with Mr. Ferrebee.  
8 Your Honor also instructed Mr. Ferrebee on the law. I had a  
9 chance to speak to Mr. Ferrebee's family after that hearing  
10 with regard to filing certain pretrial motions where I was of  
11 my opinion and in speaking with Mr. Sempa and looking over the  
12 case law and the case -- it was my opinion that, you know, if  
13 he wants to file a motion, that's fine. But a lot of things  
14 change when you're negotiating with the government if you file  
15 pretrial motions, which I have explained to Mr. Ferrebee and  
16 explained to his family. His family has had discussions with  
17 Mr. Ferrebee back at that time to say, hold up on doing  
18 anything until I have a chance to sit down and speak to Mr.  
19 Ferrebee.

20 Your Honor, it wasn't two or three days after that I  
21 received the instant motion he wants to proceed pro se. He has  
22 every right to proceed pro se although I have cautioned against  
23 it. And there's just certain things in this pro se motion that  
24 quite frankly, Your Honor, aren't true. If he wants to proceed  
25 pro se, I mean, Your Honor can colloquy him and if Your Honor

1 grants him the right to proceed pro se, he has that right under  
2 the law.

3 THE COURT: There's no question about that. Is that  
4 all you have to say?

5 MR. OSBORNE: That's all I have to say, Your Honor.  
6 I can comment on this petition here as to certain allegations  
7 he makes in here about myself, but I would like to be sworn if  
8 I'm going to give testimony for further proceedings but --

9 THE COURT: I don't need your testimony.

10 MR. OSBORNE: That's all I have to say, Your Honor.

11 THE COURT: Mr. Ferrebee, what seems to be the  
12 problem between you and Mr. Osborne?

13 THE DEFENDANT: Your Honor, I've been really having a  
14 problem. I've been asking my attorney to come see me multiple  
15 times and not only to discuss the discovery with me but discuss  
16 a strategy on how to prepare a defense. I haven't gotten any  
17 type of response to it. He has said at the last court hearing  
18 that he would see me within two weeks about pretrial motions  
19 and stuff. This is the next time that I am seeing him so I am  
20 not --

21 THE COURT: Haven't seen him since that time?

22 THE DEFENDANT: No. I'm having a real problem. I  
23 don't know how we can --

24 THE COURT: Listen, what's your first name?

25 THE DEFENDANT: Josiah.

1           THE COURT: Josiah, do you understand you have a  
2 right to represent yourself, okay?

3           THE DEFENDANT: Yes.

4           THE COURT: We don't encourage you -- we try to  
5 discourage you in proceeding that way because you're not  
6 trained in the law, and, of course, the -- you will be facing  
7 lawyers that have a lot of experience in trying cases. Okay.

8           THE DEFENDANT: Yes, Your Honor.

9           THE COURT: It's not in your best interest I don't  
10 believe, and I think that every judge in the country would say  
11 not to proceed without a lawyer. But I've given a lot of  
12 thought since our last hearing and the statements that we have  
13 had here this morning. I am going to reconsider my motion, all  
14 right. I am going to relieve Mr. Osborne of responsibility in  
15 this case. And he has already talked to me, you know, on  
16 numerous occasions about your case, all right. And it's a --  
17 it's a special case.

18           Your case is -- of course like every other case -- is  
19 a special case, all right. So I'm now going to grant you your  
20 motion to withdraw counsel, and I am going to appoint new  
21 counsel for you, all right.

22           THE DEFENDANT: Okay.

23           THE COURT: Okay. Gentleman, anything else?

24           MR. HOUSER: Is that acceptable for the time being,  
25 Mr. Ferrebee, if you have the advice of new counsel and then

1 you can decide whether you want to proceed pro se as far you're  
2 satisfied for today's purpose to see how your relationship  
3 develops?

4 THE COURT: I think I have covered that. Do you have  
5 any questions of me?

6 THE DEFENDANT: Would it be okay if I proceed pro se  
7 and request another attorney at a later date?

8 THE COURT: No, that's not the way it goes. You have  
9 a choice, and that is to have counsel in every criminal case.  
10 Counsel is appointed or you hire new counsel, all right. And  
11 if then if it doesn't work out, you bring a motion before the  
12 Court and -- a written motion why you should proceed pro se,  
13 all right. Now, I think that's what the district attorney is  
14 agreeing with me, all right.

15 Now, I have reconsidered your initial motion and  
16 together with the -- the testimony that I have received from  
17 Mr. Osborne today and your testimony --

18 THE DEFENDANT: Yes.

19 THE COURT: And I have reconsidered that. And now I  
20 am going to allow you to grant your request to have counsel --  
21 new counsel appointed, all right.

22 THE DEFENDANT: Okay. Thank you.

23 MR. OSBORNE: Thanks, Your Honor.

24 THE COURT: Thank you.

25

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Laura Boyanowski, RMR, CRR  
Official Court Reporter

## REPORTED BY:

LAURA BOYANOWSKI, RMR, CRR  
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